



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

ANGELO OTERO
PO BOX 121589
ARLINGTON TX 76012

Respondent Name

AMERICAN ZURICH INSURANCE CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-13-0423-01

MFDR Date Received

October 10, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Dr. Angelo Otero requests Medical Dispute Resolution in pursuant of Rule 133.305 Medical Dispute Resolution in the above referenced patient's case.

These services were requested and prescribed by the Division. The above referenced designated doctor performed the MMI examination and assigned the IR, but he did not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that means he should bill using the appropriate MMI CPT Code 99456 with the component modifier – 26. Reimbursement for the examining doctor is 80% of the MAR.

The physical therapist and/or health care provider other than the examining doctor that performs the range of motion, strength, or sensory testing of the musculoskeletal body, the physical therapist and/or health care provider will bill with the component – TC. In this instance, reimbursement to the physical therapist and/or health care provider is 20% of the MAR."

Amount in Dispute: \$300.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Texas Labor Code requires reimbursement for all medical expenses to be fair and reasonable and be designed to ensure the quality of medical care and to achieve effective medical cost control. TEX. LABOR CODE Section 413.011(d). The carrier asserts that it has paid according to applicable fee guidelines."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 22, 2012	CPT Code 99456-W5-26	\$240.00	\$240.00
	CPT Code 99456-W5-TC	\$60.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 amended to be effective May 31, 2012, *37 Texas Register* 3833, applicable to medical fee dispute resolution requests filed on or after June 1, 2012, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.204 sets out the fee guideline for workers' compensation specific services on or after March 1, 2008.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 18, 2012

- W1 – Workers' Compensation Jurisdictional Fee Schedule Adjustment

Explanation of benefits dated June 25, 2012

- 18 – Duplicate claim/service

Explanation of benefits dated July 16, 2012

- W1 – Workers' Compensation Jurisdictional Fee Schedule Adjustment

Issues

1. Has the Designated Doctor (DD) examination been reimbursed appropriately per 28 Texas Administrative Code §134.204?
2. Is the requestor entitled to reimbursement for the disputed services under 28 Texas Administrative Code §134.204?

Findings

1. Requestor billed with CPT Code 99456-W5-26 in the amount of \$650.00 with one unit and CPT Code 99456-W5-TC in the amount of \$650.00 with one for a Maximum Medical Improvement (MMI) and Impairment Rating (IR) examination.
Per Administrative Code 134.204 states:
(j) Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows
(1) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR. The MMI/IR examination shall include:
(3) The following applies for billing and reimbursement of an MMI evaluation
(C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350
(4) The following applies for billing and reimbursement of an IR evaluation
(C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas
(i) Musculoskeletal body areas are defined as follows:
(I) spine and pelvis;
(II) upper extremities and hands; and,
(III) lower extremities (including feet).
(ii) The MAR for musculoskeletal body areas shall be as follows
(II) If full physical evaluation, with range of motion, is performed:
(-a-) \$300 for the first musculoskeletal body area; and
(-b-) \$150 for each additional musculoskeletal body area and
(iv) If, in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), the examining doctor performs the MMI examination and assigns the IR, but does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s),

then the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier "26."
Reimbursement shall be 80 percent of the total MAR.

CPT Code 99456-W5-26 is supported. Review of submitted documentation EES-14, DWC-32 and DWC-69 support a request for Designated Doctor Examination to address Maximum Medical Improvement (MMI) and Impairment Rating (IR) examination with one body area being rated/assigned however the examining doctor did not perform the range of motion method used.

The Total Mar for CPT Code 99456-W5-TC is 520.00

Per Administrative Code 134.204 states:

(j) Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows

(1) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR. The MMI/IR examination shall include:

(3) The following applies for billing and reimbursement of an MMI evaluation

(C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350

(4) The following applies for billing and reimbursement of an IR evaluation

(C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas

(i) Musculoskeletal body areas are defined as follows:

(I) spine and pelvis;

(II) upper extremities and hands; and,

(III) lower extremities (including feet).

(ii) The MAR for musculoskeletal body areas shall be as follows

(II) If full physical evaluation, with range of motion, is performed:

(-a-) \$300 for the first musculoskeletal body area; and

(-b-) \$150 for each additional musculoskeletal body area and

(v) If a HCP, other than the examining doctor, performs the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then the HCP shall bill using the appropriate MMI CPT code with modifier "TC." In accordance with §130.1 of this title, the HCP must be certified. Reimbursement shall be 20 percent of the total MAR.

CPT Code 99456-W5-TC is not supported as review of the submitted EES-14, DWC-32 and DWC-69 support a request for a Designated Doctor Examination to address Maximum Medical Improvement (MMI) and Impairment Rating (IR) examination to one body area assigned however the examining doctor did not perform the range of motion. Documentation supports a certified technician performed the range of motion method to the assigned body area that the examining doctor assigned.

Therefore, CPT 99456-W5-TC no additional reimbursement is allowed.

2. The respondent issued payment in the amount of \$280.00 for CPT Code 99456-W5-26. Based upon the documentation submitted, additional reimbursement in the amount of \$240.00 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to

additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$240.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		10/18/13
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.